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|  | U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement | | GRANT NUMBER (FAIN): 96273900 | DATE OF AWARD 09/13/2016 | |
| | | | MODIFICATION NUMBER: 0 PROGRAM CODE: BF | | |
| | | | TYPE OF ACTION New | | MAILING DATE 09/20/2016 |
| | | | PAYMENT METHOD: Advance | | ACH# pend |
| RECIPIENT TYPE: Municipal | | | Send Payment Request to: Las Vegas Finance Center | | |
| RECIPIENT: City of Asbury Park 1 Municipal Plaza Asbury Park, NJ 07712-7026 EIN: 21-6000035 | | | PAYEE: City of Asbury Park 1 Municipal Plaza Asbury Park, NJ 07712-7026 | | |
| PROJECT MANAGER | | EPA PROJECT OFFICER | | EPA GRANT SPECIALIST | |
| Michele Alonso 1 Municipal Plaza Asbury Park, NJ 07712-7026 E-Mail: michele.alonso@cityofasburypark.com Phone: 732-502-5711 | | Alison Devine 290 Broadway, ERRD/PSB New York, NY 10007-1866 E-Mail: devine.alison@epa.gov Phone: 212-637-4158 | | Regina Auletta Grants and Audit Management Branch, OPM/GAMB E-Mail: Auletta.Regina@epa.gov Phone: 212-637-3913 | |
| PROJECT TITLE AND DESCRIPTION City of Asbury Park 2016 US EPA Brownfields Community-Wide Assessment Grant Under this Cooperative Agreement, the City of Asbury Park will develop and implement a program to assess local "brownfields" properties, or properties whose expansion, redevelopment or reuse may be complicated by the presence of petroleum substances. The Community Wide Petroleum Substances Assessment Program will target vacant, abandoned and underutilized commercial and industrial sites to encourage redevelopment. The City of Asbury Park will select and assess sites believed to be contaminated specifically with petroleum substances throughout the city. The City of Asbury Park will involve residents and other stakeholders surrounding the sites by holding community meetings and sharing information. | | | | | |
| BUDGET PERIOD 10/01/2016 - 09/30/2019 | | PROJECT PERIOD 10/01/2016 - 09/30/2019 | | TOTAL BUDGET PERIOD COST \$200,000.00 | |
| | | | | TOTAL PROJECT PERIOD COST \$200,000.00 | |
| NOTICE OF AWARD | | | | | |
| Based on your Application dated 07/14/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$200,000. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$200,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments. | | | | | |
| ISSUING OFFICE (GRANTS MANAGEMENT OFFICE) | | | AWARD APPROVAL OFFICE | | |
| ORGANIZATION / ADDRESS | | | ORGANIZATION / ADDRESS | | |
| Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866 | | | U.S. EPA, Region 2 Emergency and Remedial Response Division 290 Broadway New York, NY 10007-1866 | | |
| THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY | | | | | |
| Digital signature applied by EPA Award Official Richard Manna - Assistant Regional Administrator for Policy and Management | | | | DATE 09/13/2016 | |

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| FUNDS | FORMER AWARD | THIS ACTION | AMENDED TOTAL |
|-------------------------------|--------------|-------------|---------------|
| EPA Amount This Action | \$ | \$ 200,000 | \$ 200,000 |
| EPA In-Kind Amount | \$ | \$ | \$ 0 |
| Unexpended Prior Year Balance | \$ | \$ | \$ 0 |
| Other Federal Funds | \$ | \$ | \$ 0 |
| Recipient Contribution | \$ | \$ | \$ 0 |
| State Contribution | \$ | \$ | \$ 0 |
| Local Contribution | \$ | \$ | \$ 0 |
| Other Contribution | \$ | \$ | \$ 0 |
| Allowable Project Cost | \$ 0 | \$ 200,000 | \$ 200,000 |

| Assistance Program (CFDA) | Statutory Authority | Regulatory Authority |
|--|------------------------|---------------------------------------|
| 66.818 - Brownfields Assessment and Cleanup Cooperative Agreements | CERCLA: Sec. 104(k)(2) | 2 CFR 200 2 CFR 1500 and 40 CFR 33 |

[illegible]

Budget Summary Page

| Table A - Object Class Category (Non-construction) | Total Approved Allowable Budget Period Cost |
|--|--|
| 1. Personnel | \$0 |
| 2. Fringe Benefits | \$0 |
| 3. Travel | \$1,500 |
| 4. Equipment | \$0 |
| 5. Supplies | \$0 |
| 6. Contractual | \$186,000 |
| 7. Construction | \$0 |
| 8. Other | \$12,500 |
| 9. Total Direct Charges | \$200,000 |
| 10. Indirect Costs: % Base | \$0 |
| 11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.) | \$200,000 |
| 12. Total Approved Assistance Amount | \$200,000 |
| 13. Program Income | \$0 |
| 14. Total EPA Amount Awarded This Action | \$200,000 |
| 15. Total EPA Amount Awarded To Date | \$200,000 |

Administrative Conditions

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at : https://www.epa.gov/sites/production/files/2016-03/documents/epa_general_terms_and_conditions_effective_march_29_2016_or_later.pdf.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. UTILIZATION OF SMALL , MINORITY AND WOMEN 'S BUSINESS ENTERPRISES

MBE/WBE REPORTING , 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide the Grants Specialist with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the Region 2 Grants Office's central mailbox (Region2_GrantApplicationBox@epa.gov) with a courtesy copy to the grants specialist. The current EPA Form 5700-52A can be found at http://www.epa.gov/osbp/dbe_reporting.htm <http://www2.epa.gov/grants/epa-grantee-forms>

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in

effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

GENERAL COMPLIANCE , 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements , contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES , 40 CFR, Part 33, Subpart D

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is \$250,000 or less; or the total dollar amount of all of the recipient's financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

SIX GOOD FAITH EFFORTS , 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained :

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules , where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process . This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process .
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS , 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST , 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant , agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

B. ADVANCE METHOD OF PAYMENT

Pursuant to 2 CFR 200.305, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and emailing it to the Las Vegas Finance Center at LVFC-grants@epa.gov. This form can be found at <http://www2.epa.gov/grants/epa-grantee-forms>. All email attachments must be sent in pdf format.

C. INTERIM FEDERAL FINANCIAL REPORT AND CLOSE -OUT INSTRUCTIONS

1. Interim Federal Financial Reports (FFRs)

Pursuant to 2 CFR 200.327, EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the anniversary of the start date of the agreement. The FFR must be emailed to LVFC-grants@epa.gov. A courtesy copy of the interim FFR can be submitted to the Grants and Audit Management Branch via email to Region2_GrantApplicationBox@epa.gov. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

EPA may take enforcement actions in accordance with 2 CFR 200.338 if the recipient does not comply with this term and condition.

2. Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR, in accordance with 2 CFR 200.343. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Audit Management Branch, if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

D. EXTENSION OF PROJECT /BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch via email to Region2_GrantApplicationBox@epa.gov. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed to the Las Vegas Finance Office at LVFC-grants@epa.gov or sent to the following address:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

Programmatic Conditions

GRANT-SPECIFIC PROGRAMMATIC TERMS AND CONDITIONS

I. GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions the term “assessment” includes , eligible activities under the Comprehensive Environmental Response , Compensation , and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory , characterization , assessment, and planning relating to brownfield sites as described in the EPA approved work plan .

A. Federal Policy and Guidance

1. a. Cooperative Agreement Recipients: By awarding this cooperative agreement, EPA has approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2016 competition for Brownfields assessment cooperative agreements.
- b. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k). The CAR shall also ensure that assessment activities supported with cooperative agreement funding comply with all applicable Federal and State laws and regulations.
- c. The recipient must comply with Federal cross-cutting requirements. These requirements include but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC § 327-333) the Anti Kickback Act (40 USC § 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.
- d. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration and repair contracts and subcontracts awarded with funds provided under this agreement. Activities conducted under assessment grants generally do not involve construction, alteration and repair within the meaning of the Davis-Bacon Act. The recipient must contact EPA's Project Officer if there are unique circumstances (e.g. removal of an underground storage tank or another structure and restoration of the site) which indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. The Agency will provide guidance on Davis-Bacon Act compliance if necessary.

B. Eligible Brownfields Site Determinations

1. a. The CAR must provide information to EPA about site-specific work prior to incurring any costs under this cooperative agreement for sites that have not already been pre-approved in the CAR's work plan by the EPA. The information that must be provided includes whether or not the site meets the definition of a brownfield site as defined in § 101(39) of CERCLA, whether the CAR is the potentially responsible party under CERCLA 107 and/or has defenses to liability.
- b. If the site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination. In their request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for assessing sites requiring a property-specific funding determination by EPA until the EPA

Project Officer has advised the CAR that the Agency has determined that the property is eligible.

2. a. For any petroleum contaminated brownfield site that is not included in the CAR's EPA approved work plan, the CAR shall provide sufficient documentation to the EPA prior to incurring costs under this cooperative agreement which includes (refer to the latest version of EPA's *Proposal Guidelines for Brownfields Assessment Grants* dated October 2015 for discussion of this element) documenting that:
 - (1) a State has determined that the petroleum site is of relatively low risk, as compared to other petroleum-only sites in the State,
 - (2) the State determines there is "no viable responsible party" for the site;
 - (3) the State determines that the person assessing or investigating the site is a person who is not potentially liable for cleaning up the site; and
 - (4) the site is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State following contact and discussion with the appropriate petroleum program official.

- b. Documentation must include (1) the identity of the State program official contacted, (2) the State official's telephone number, (3) the date of the contact, and (4) a summary of the discussion relating to the state's determination that the site is of relatively low risk, that there is no viable responsible party and that the person assessing or investigating the site is not potentially liable for cleaning up the site. Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.
- c. If the State chooses not to make the determinations described in 2.a. above, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the requisite determinations.
- d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfields sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the determinations described in 2.a. above.

C. Cybersecurity Grant Condition for Other Recipients , Including Intertribal Consortia

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State or Tribal law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

II. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Term of the Agreement

1. The term of this agreement is three years from the start date of the project/budget, unless otherwise extended by EPA at the CAR's request.
2. If after 18 months from the date of award, EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the recipient must implement a corrective action plan approved by the EPA Project Officer, or EPA may terminate this agreement for material non-compliance with its terms. For purposes of assessment grants, the recipient demonstrates "sufficient progress" when 35% of funds have been drawn down and obligated to eligible activities; for assessment coalition grants "sufficient progress" is demonstrated when a solicitation for services has been released, sites are prioritized or an inventory has been initiated if necessary, community involvement activities have been initiated and a Memorandum of Agreement (for Assessment Coalitions) is in place.
3. Assessment funding for an eligible brownfield site may not exceed \$200,000 unless a waiver has been granted by EPA. Following the granting of a waiver, funding is not to exceed \$350,000 at the site.

B. Substantial Involvement

1. The EPA may be substantially involved in overseeing and monitoring this cooperative agreement .
 - a. Substantial involvement by EPA generally includes administrative activities such as monitoring, reviewing project phases, and approving substantive terms included in professional services contracts .
 - b. Substantial EPA involvement also includes brownfields property -specific funding determinations described in I.B. under *Eligible Brownfields Site Determinations* above. If the CAR awards a subaward for site assessment, the CAR must obtain technical assistance from EPA on which sites qualify as a brownfield site and determine whether the statutory prohibition found in section 104(k)(4)(B)(i)(IV) of CERCLA applies. This prohibition precludes the subrecipient from using EPA funds to assess a site for which the subrecipient is potentially liable under § 107 of CERCLA. (See Section II.C.3 for more information on subawards.)
 - c. Substantial EPA involvement may include reviewing financial and environmental status reports; and monitoring all reporting, record-keeping, and other program requirements.

- d. EPA may waive any of the provisions in term and condition II.B.1. with the exception of property-specific funding determinations. EPA will provide waivers in writing.
2. Effect of EPA's substantial involvement includes:
- a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement, will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any Federal statute.
 - b. The CAR remains responsible for ensuring that all assessments are protective of human health and the environment and comply with all applicable Federal and State laws.
 - c. The CAR and its subrecipients remain responsible for incurring costs that are allowable under 2 CFR Part 200 Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

- 1. The CAR must acquire the services of a qualified environmental professional (s) to coordinate, direct, and oversee the brownfields assessment activities at a particular site, if they do not have such a professional on staff.
- 2. The CAR is responsible for ensuring that contractors and subrecipients comply with the terms of their agreements with the CAR, and that agreements between the CAR and subrecipients and contractors comply with the terms and conditions of this agreement.
- 3. Subawards are defined at 2 CFR 200.92. The CAR may not subaward to for-profit organizations. The CAR must obtain commercial services and products necessary to carry out this agreement under competitive procurement procedures as described in 2 CFR Part 200.317 through 200.326. In addition, EPA policy encourages awarding subawards competitively and the CAR must consider awarding subawards through competition.
- 4. The CAR is responsible for assuring that EPA's Brownfields Assessment Grant funding received under this grant, or in combination with any other previously awarded Brownfields Assessment grant does not exceed the \$200,000 assessment grant funding limitation for an individual brownfield site. Waiver of this funding limit for a brownfields site must be approved by EPA prior to the expenditure of funding exceeding \$200,000. In no case may EPA funding exceed \$350,000 on a site receiving a waiver.
- 5. CARs expending funding from a community-wide assessment grant on a particular site must include such funding amount in any total funding expended on the site.
- 6. Competency of Organizations Generating Environmental Measurement Data: In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA project officer for this award.

D. Quarterly Progress Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, 200.328 *monitoring and reporting program performance*), the CAR agrees to submit quarterly progress reports to the EPA Project Officer within thirty days after each reporting period. (Due each January 31, April 30, July 31, and October 31 for the duration of the agreement.) Quarterly progress reports must clearly differentiate which activities were completed with EPA funds provided under the BF Cleanup grant, versus any other funding source used to help accomplish grant activities.

The CAR must submit progress report on a quarterly basis to the EPA Project Officer. Quarterly progress report must include:

- a. Work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated
- b. Summary and status of approved activities performed during the reporting quarter; summary of the performance outputs/outcomes achieved during the reporting quarter; reasons why anticipated outputs/outcomes were not met; and a description of problems encountered or difficulties during the reporting quarter that may affect the project schedule.
- c. An update on project schedule and milestones; including an explanation of any discrepancies from the approved workplan.
- d. A budget recap summary table with the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); and total remaining funds. The CAR should include an explanation of any discrepancies in the budget from the approved workplan.
- e. Any changes of key personnel concerned with the project.

E. Property Profile Submission

1. The CAR must report on interim progress (i.e., assessment started) and any final accomplishments (i.e., assessment completed, cleanup required, contaminants, Institution Controls, Engineering Controls) by completing and submitting relevant portions of the Property Profile Form using the Brownfields Program on-line reporting system, known as Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. EPA will provide the CAR with training prior to obtaining access to ACRES. The training is required to obtain access to ACRES. The CAR must utilize the ACRES system unless approval is obtained from the regional Project Officer to utilize and submit the Property Profile Form instead.

F. Community Outreach

The cooperative agreement recipient agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved work plan, which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed. Specifically:

1. Public or Media Events
The Recipient agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days notice.
2. Limited English Proficiency Communities

To increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

3. Marketing Materials

If any document, fact sheet, and/or web material are developed as part of this cooperative agreement, then they shall include the following statement: "Though this project has been funded, wholly or in part, by EPA, the contents of this document do not necessarily reflect the views and policies of the EPA."

G. Final Technical Cooperative Agreement Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, 200.328 *monitoring and reporting program performance*), the CAR agrees to submit to the EPA Project Officer within 90 days after the expiration or termination of the approved project period a final technical report on the cooperative agreement and at least one reproducible copy suitable for printing. The final technical report shall document project activities over the entire project period and shall include brief information on each of the following areas: 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs. The CAR agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the cooperative agreement workplan.

III. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the work plan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess, and conduct planning and outreach. Eligible programmatic expenses include activities described in Section IV of these Terms and Conditions. In addition, such eligible programmatic expenses may include:
 - a. Determining whether assessment activities at a particular site are authorized by CERCLA § 104(k);
 - b. Ensuring that an assessment complies with applicable requirements under Federal and State laws, as required by CERCLA § 104(k);
 - c. Using a portion of the grant to purchase environmental insurance for the characterization or assessment of the site. Funds may not be used to purchase insurance intended to provide coverage for any of the Ineligible Uses under Section III.B.
 - d. Any other eligible programmatic costs including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding and managing subawards to the extent allowable under III.B.2; and carrying out community involvement pertaining to the assessment activities.

B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:
 - a. Cleanup activities;
 - b. Development activities that are not brownfields assessment activities (e.g., construction of a

new facility);

- c. Job training unrelated to performing a specific assessment at a site covered by the grant;
- d. To pay for a penalty or fine;
- e. To pay a federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority ;
- f. To pay for a response cost at a brownfields site for which the recipient of the grant or subaward is potentially liable under CERCLA § 107;
- g. To pay a cost of compliance with any federal law , excluding the cost of compliance with laws applicable to the assessment; and
- h. Unallowable costs (e.g., lobbying and fund raising) under 2 CFR Part 225 for state, local and tribal governments, as applicable.

2. Under CERCLA § 104(k) (4) (B), administrative costs are prohibited costs under this agreement . Prohibited administrative costs include all indirect costs under 2 CFR Part 225 for state, local and tribal governments, as applicable.

- a. Ineligible administrative costs include costs incurred in the form of salaries , benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirements, Cost Principles and Audit requirements for Federal Awards* at 2 CFR 200 and 2 CFR 1500. Direct costs for grant administration, with the exception of costs specifically identified as eligible programmatic costs , are ineligible even if the grant recipient is required to carry out the activity under the grant agreement.
- b. Ineligible grant administration costs include direct costs for :
 - (1) Preparation of applications for brownfields grants ;
 - (2) Record retention required under 2 CFR 1500.6;
 - (3) Record-keeping associated with equipment purchases required under 2 CFR 200.313;
 - (4) Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR 200.308;
 - (5) Maintaining and operating financial management systems required under 2 CFR 200.302;
 - (6) Preparing payment requests and handling payments under 2 CFR 200.305;
 - (7) Non-federal audits required under 2 CFR 200 Subpart F; and
 - (8) Close out under 2 CFR 200.343.

3. Cooperative agreement funds may not be used for any of the following properties:

- a. Facilities listed , or proposed for listing, on the National Priorities List (NPL);
- b. Facilities subject to unilateral administrative orders , court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under

CERCLA;

- c. Facilities that are subject to the jurisdiction , custody or control of the United States government except for land held in trust by the United States government for an Indian tribe; or
- d. A site excluded from the definition of a brownfields site for which EPA has not made a property-specific funding determination.

C. Interest-Bearing Accounts and Program Income

1. In accordance with 2 CFR 1500.7, the CAR is authorized to add program income to the funds awarded by the EPA and use the program income under the same terms and conditions of this agreement. Program income for the assessment CAR shall be defined as the gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award. Program income includes, but is not limited to, fees charged for conducting assessment, site characterizations, clean up planning or other activities when the costs for the activity is charged to this agreement.
2. The CAR must deposit advances of grant funds and program income (i.e. fees) in an interest bearing account.
 - a. For interest earned on advances, CARs are subject to the provisions of 2 CFR 200.305(b)(7)(ii) relating to remitting interest on advances to EPA on a quarterly basis.
 - b. Interest earned on program income is considered additional program income .
 - c. The CAR must disburse program income (including interest earned on program income) before requesting additional payments from EPA as required by 2 CFR 1500.8.

IV. ASSESSMENT ENVIRONMENTAL REQUIREMENTS

A. Authorized Assessment Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling), the CAR shall consult with EPA regarding potential applicability of the National Historic Preservation Act and , if applicable, shall assist EPA in complying with any requirements of the Act and implementing regulations .

B. Quality Assurance (QA) Requirements

1. When environmental data are collected as part of the brownfields assessment, the CAR shall comply with 2 CFR 1500.11 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss . State law may impose additional QA requirements .

D. All Appropriate Inquiry

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's standard for all appropriate inquiries. The CAR shall utilize the practices in ASTM standard E 1527-13 "Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or EPA's All Appropriate Inquiries Final Rule

“All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content”, (Publication Number: EPA 560-F-14-003). This does not preclude the use of grant funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable State standards .

2. All Appropriate Inquiries (AAI) final reports produced with funding from this agreement must comply with 40 C.F.R. Part 312 and must, at a minimum, include the information below. All AAI reports submitted to EPA Project Officers as deliverables under this agreement must be accompanied by a completed “All Appropriate Inquiries Final Rule : Reporting Requirements Checklist for Assessment Grant Recipients” (Publication Number: EPA 560-R-10-030) that EPA’s Project Officer will provide to the recipient . The checklist also is available to grantees on the EPA website at www.epa.gov/brownfields.

- a. An ***opinion*** as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property.
- b. An identification of ***“significant” data gaps*** (as defined in 40 C.F.R. 312.10), if any, in the information collected for the inquiry . Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.
- c. ***Qualifications and signature*** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:
 - *“[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, we] meet the definition of Environmental Professional as defined in §312.10 of this part.”*
 - *“[I, We] have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.”*

Note: Please use either “I” or “We .”

- d. In compliance with §312.31(b), the environmental professional must include in the final report an ***opinion regarding additional appropriate investigation*** , if the environmental professional has such an opinion .
3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR part 312 (or comparable requirements for those using ASTM Standard 1527-13). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR 200.338 through 2 CFR 200.342. If a recipient willfully fails to correct the deficiencies the Agency may consider other available remedies under 2 CFR 200.342.

E. Completion of Assessment Activities

1. The CAR shall properly document the completion of all activities described in the EPA approved work plan. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a State or Tribe that shows assessments are complete.

V. CONFLICT OF INTEREST : APPEARANCE OF LACK OF IMPARTIALITY

A. Conflict of Interest

1. The CAR shall establish and enforce conflict of interest provisions that prevent the award of subawards that create real or apparent personal conflicts of interest, or the CAR's appearance of lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a grant or subawards to a subrecipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of lack of impartiality may arise when:

- (i) The affected party,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the subrecipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected parties.

VI. PAYMENT AND CLOSEOUT

A. Payment Schedule

1. The CAR may request payment from EPA pursuant to 2 CFR 200.305.

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR 200.343. EPA will close out the award when it determines that all applicable administrative actions and all required work of the grant have been completed.

2. The CAR, within 90 days after the expiration or termination of the grant, must submit all financial, performance, and other reports required as a condition of the grant.

- a. The CAR must submit the following documentation:

- (1) The Final Report as described in II.G. of the Assessment Terms and conditions.

- b. The CAR must ensure that all appropriate data has been entered into ACRES or all Property Profile Forms are submitted to the Region.

- c. The grantee must immediately refund to the Federal agency any balance of unobligated

(unencumbered) cash advanced that is not authorized to be retained for use on other grants.